

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Southwestern Bell Telephone Company  
Revisions to Tariff F.C.C. No. 73

)  
)  
) Transmittal Nos. 2383,  
) 2388, 2392, 2397 and  
) 2407

) CC Docket No. 94-97

) DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF  
SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT) hereby responds to the Oppositions filed against its January 9, 1995 Application for Review of the Common Carrier Bureau's December 9, 1994 Order.<sup>1</sup>

I. THE BUREAU ASSIGNED INAPPROPRIATE OVERHEAD LOADING FACTORS.

None of the Oppositions provide any substantiation for the Bureau's use of a redefinition of "comparable services" to reduce SWBT's overhead loadings.<sup>2</sup> MFS claims that SWBT has not justified its overhead loadings.<sup>3</sup> On the contrary, SWBT more than adequately

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<sup>1</sup> Ameritech Operating Companies, CC Docket No. 94-97 (DA 94-1421), Order, (Common Carrier Bureau released December 9, 1994) (Virtual Collocation Tariff Order). Oppositions were filed by MFS Communications Company, Inc. (MFS); MCI Telecommunications Corporation (MCI); and the Association for Local Telecommunications Services (ALTS).

<sup>2</sup> While ALTS (at p. 4) claims that SWBT can not now raise the question of inappropriate overhead recovery since it is being raised "for the first time in its application," ALTS misunderstands Commission procedure. SWBT could not possibly complain about inappropriate overhead recovery until the Bureau arbitrarily slashed it. While ALTS also claims that SWBT does not offer "an alternative allocation mechanism," ALTS misses the point again. SWBT submitted the proper mechanism in its September 1, 1994 tariff filing.

<sup>3</sup> MFS at pp. 3-4.

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justified its overhead loadings. MFS is totally wrong in its allegation that the Commission has been forced to analyze the SWBT overheads without input from SWBT. MFS conveniently forgets that it asked the Commission to release the data that SWBT submitted. MFS has continued to oppose SWBT's efforts to keep its confidential cost information from MFS' competitive use of it. MFS might claim that it has not had access to the information, but cannot claim that it does not exist, or that it has not been submitted to the Bureau.

The Oppositions fail to explain how the Bureau can consider the selected rate element to be "comparable" to interconnection rate elements when it is not technically equivalent and has no demand in SWBT's Zone One markets. While the Virtual Collocation Tariff Order alleges this element to have the overhead offered to SWBT's "most favored"<sup>4</sup> customers, this allegation is obviously in error since the element has no customers in SWBT's Zone One markets.

All three Oppositions attempt to justify the Bureau's action by reference to the difference between SWBT's rates and those of other LECs. All of these comparisons must be rejected, however, since these comparisons generally fail to recognize the use by the other companies of a \$1 buyback option. SWBT's rates are naturally above those other companies that require the interconnector to purchase its own equipment. The Oppositions must realize, and the Commission should recognize, that SWBT has saved interconnectors the expense and trouble of finding their own IDE since SWBT is doing so in its own tariff structure. SWBT's rate structure is different than other LECs and thus the comparisons of the Oppositions are inappropriate. Equipment rates based on actual vendor prices cannot reasonably be compared to rates based on \$1 buyback arrangements.

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<sup>4</sup> Virtual Collocation Tariff Order at para. 27.

II. SWBT'S EQUIPMENT SALE REQUIREMENT SHOULD NOT HAVE BEEN STRICKEN.

None of the Oppositions adequately address SWBT's reasons for including its original version of the equipment sale requirement in its tariffs. All that MFS and MCI can say is that essentially this provision was unfair to them. They fail to recognize the fact that if SWBT is forced to base its IDE rate to subsequent interconnectors upon the one-time sale of equipment from another interconnector, subsequent interconnectors will be paying a rate that is not based upon SWBT's cost for their interconnection. However, if SWBT is allowed to establish individual case basis pricing for interconnectors who wish to sell SWBT their own IDE, this concern may be rendered moot.

III. SWBT'S APPLICATION FOR REVIEW IS PROCEDURALLY PROPER.

ALTS claims that SWBT has not specified any of the factors that warrant Commission consideration. While SWBT's Application for Review clearly specified these factors,<sup>5</sup> SWBT will state them again here for ALTS' benefit: The Bureau wrongly redefined the Virtual Collocation Order's questionable direction to use "comparable services" in the calculation of LEC overheads, and the Bureau also inappropriately struck SWBT's equipment purchase requirements. As explained by SWBT's Application for Review, each of these rulings conflicts with established Commission policy as noted, or in the alternative, to the extent that the Commission has no policy on these aspects of its new collocation policy, review is appropriate. Further, the establishment of a new overhead loading factor was an erroneous finding as to an important and material question of fact. MFS claims that SWBT's Application

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<sup>5</sup> SWBT's Application for Review at p. 1.


for Review is "procedurally inapt."<sup>6</sup> MFS asserts that the suspension is an "interim measure," and "interlocutory." If at the end of the investigation the Bureau makes SWBT whole by reinstituting its equipment sale provision, raising SWBT's rates back to the originally filed levels, and allowing SWBT to collect from all interconnectors the difference between the rates they paid during the course of the investigation and SWBT's originally filed rates, then MFS may be correct in its assessment of the Virtual Collocation Tariff Order. If MFS does not agree that all of these conditions are possible, it must concede that SWBT is forced to take action now to protect its rights.

IV. CONCLUSION

For the foregoing reasons, SWBT respectfully requests that the Commission review and revise the Virtual Collocation Tariff Order as described in its Application for Review.

Respectfully submitted,

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<sup>6</sup> MFS at p. 4.

**CERTIFICATE OF SERVICE**

I, Katie M. Turner, hereby certify that the foregoing, "Reply Comments Of Southwestern Bell Telephone Company" in Docket #94-97 has been filed this 8th day of February, 1995 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", is written over a horizontal line.

Katie M. Turner

February 8, 1995

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